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A. Environmental Review

On July 27, 2011, the City of Fairfield, as lead agency, certified the Fairfield Train Station Specific Plan Final Environmental Impact Report (FEIR)) (State Clearinghouse (SCH) No. 2010042093) for the Project and filed a Notice of Determination (NOD) at the SCH on October 14, 2011. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that City of Fairfield's certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3). The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by City of Fairfield addresses the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by City of Fairfield for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation.

The Program Environmental Impact Report (EIR), which includes analyses of broad impacts and serves as a first tier document for the FEIR, is available at:

<https://www.fairfield.ca.gov/gov/depts/cd/planning/train.asp>.

Requirements under the purview of the State Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

C. Findings

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, including comments received during the public review process, the State Water Board makes the following findings:

1. Findings regarding impacts that will be mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

a.i. Potential Significant Impact

Biological Resources 4.4-1 Loss and Degradation of Jurisdictional Wetlands and Other Waters of the United States, and Waters of the State: Project implementation would result in the placement of fill material into jurisdictional waters of the United States, including wetlands subject to USACE jurisdiction under the federal Clean Water Act.

a.ii. Facts in Support of Finding

Mitigation measure 4.4-1a: Secure Clean Water Act Section 404 Permit and Implement All Permit Conditions; Ensure No Net Loss of Functions and Values of Wetlands, Other Waters of the United States, and Waters of the State. This mitigation measure will reduce this impact to a level that is less than significant.

b.i. Potential Significant Impact

Biological Resources 4.4-2 Loss and Degradation of Habitat for Special-status Wildlife Species and Potential Direct Take of Individuals: Project implementation would result in the loss and degradation of habitat for several special-status wildlife species. Take of state and federally listed species could also result.

b.ii. Facts in Support of Finding

Mitigation Measure 4.4-2a: Secure Take Authorization for Federally Listed Vernal Pool Invertebrates and Implement All Permit Conditions; Preserve and Restore Wetland and Adjacent Upland Habitat Consistent with the USFWS Biological Opinion;

Mitigation Measure 4.4-2b: Implement Mitigation Measure 4.4-2a; Secure Take Authorization for California Tiger Salamander and Implement All Permit Conditions; Preserve and Enhance Upland Habitat; Preserve and Create Breeding Habitat.

Mitigation Measure 4.4-2c: Avoid Direct Loss of Swainson's Hawk and Other Raptors.

Mitigation Measure 4.4-2d: Avoid and Minimize Impacts to Tricolored Blackbird Nesting Colonies.

Mitigation Measure 4.4-2e: Avoid and Minimize Impacts to Nesting Loggerhead Shrikes.

These mitigation measures will reduce this impact to a level that is less than significant.

c.i. Potential Significant Impact

Biological Resources 4.4-3 Loss of Special-status Plants and Loss and Degradation of Special-Status Plant Habitat: Project implementation would result in direct removal of vernal pools occupied by Contra Costa Goldfields, a species federally listed as endangered, as well as dwarf downingia and legenera, which are listed as rare by CNPS. Other CNPS listed species have been documented in the Specific Plan Area and could also be removed during project development. Other special-status plant species could potentially be present and could be lost through habitat removal or modification. In addition, any special-status plants on the Specific Plan Area that are not directly removed could be adversely affected by loss or degradation of suitable or occupied habitat;

c.ii. Facts in Support of Finding:

Mitigation Measure 4.4-3a:

Secure Take Authorization for Federally Listed Contra Costa Goldfields and Implement All Permit Conditions, Implement Contra Costa Goldfields Core Population Development Criteria Consistent with the SMHCP, Establish New Populations of Contra Costa Goldfields. [Note: The SMHCP was never approved. Instead the applicant will adhere to all Permit conditions.]

Mitigation Measure 4.4-3b:

Conduct Special-Status Plant Surveys: Implement Avoidance and Mitigation Measures and Compensatory Mitigation for Special-status Plants Other Than Contra Costa Goldfields.

These mitigation measures will reduce this impact to a level that is less than significant.

d.i. Potential Significant Impact

Biological Resource 4.4-4 Loss and Degradation of Sensitive Natural Communities:

Implementing the Specific Plan could result in loss or degradation of riparian plant communities and creeping rye grass tufts considered sensitive by state and local resource agencies, protected under Section 1602 of the Fish and Game Code, and requiring consideration under CEQA.

d.ii. Facts in Support of Finding:

Mitigation Measure 4.4-4: Map Riparian Habitat and Other Sensitive Natural Communities; Implement Avoidance and Mitigation Measures, Secure and Implement Section 1602 Streambed Alteration Agreement.

These mitigation measures will reduce this impact to a level that is less than significant.

e.i. Potential Significant Impact

Biological Resource 4.4-6 Conflict with Local Policies or Ordinances Protecting

Biological Resources: Project implementation could result in conflicts with policies outlined in the City of Fairfield General Plan, and City ordinances, including noxious weed, and freshwater marsh, riparian, and open water habitat policies.

e.ii. Facts in Support of Finding:

Mitigation Measure 4.4-6a: Identify and map noxious weed infestations, avoid infested areas to the extent feasible.

Mitigation Measure 4.4-6b: Assess riparian, marsh, and stream habitat, develop and implement an enhancement or restoration plan for riparian and marsh habitat, implement Mitigation Measures 4.4-1 and 4.4-4.

These mitigation measures will reduce this impact to a level that is less than significant.

f.i. Potential Significant Impact

Hydrology and Water Resources Impact 4.9-1 Construction-Related Water Quality

Impacts: Construction and grading activities to implement the Specific Plan would result in soil erosion and stormwater discharges of suspended solids and increased turbidity to on-site and ultimately to off-site drainage channels. The Specific Plan could cause increased sedimentation and pollutants and potential releases of chemicals that could be transported in stormwater runoff, wash water, and dust control water. Project construction activities that are implemented without mitigation could violate water quality standards or cause direct harm to aquatic organisms.

f.ii. Facts in Support of Finding:

Mitigation Measure 4.9-1: Acquire Appropriate Regulatory Permits and Implement SWPPP and BMPs.

This mitigation measure will reduce this impact to a level that is less than significant.

g.i. Potential Significant Impact

Potential Increased Risk of Flooding from Increased Stormwater Runoff: Specific Plan implementation could increase the total volume and peak discharge rate of stormwater runoff, and therefore could result in greater potential for on- and off-site flooding.

g.ii. Facts in Support of Finding:

Mitigation Measure 4.9-2: Prepare and Submit Final Drainage Plans to the City and Implement Requirements.

This mitigation measure will reduce this impact to a level that is less than significant.

h.i. Potential Significant Impact

Violation of Water Quality Standards: Civic, commercial, industrial, and related land use change anticipated under the Specific Plan could result in additional discharges of pollutants to receiving water bodies from nonpoint sources. Such pollutants could result in adverse changes to the water quality of the Specific Plan Area and off-site receiving waters.

h.ii. Facts in Support of Finding:

Mitigation Measure 4.9-3: Prepare and Submit a Stormwater Quality Control Plan to the City and Implement Requirements.

This mitigation measure will reduce this impact to a level that is less than significant.

i.i. Potential Significant Impact

Placement of Road Corridors in a FEMA 100-year Flood Zone. No housing, commercial, or industrial uses are proposed within the FEMA 100-year flood zone. However, the Specific Plan proposes road corridors, a park, a railroad spur, and a bike trail in the 100-year flood zone. If not properly designed to convey the 100-year flood, these corridors could impede or redirect flood flows.

i.ii. Facts in Support of Finding:

Mitigation Measure 4.9-4: Implement Mitigation Measure 4.9-2. Prepare and Submit Final Drainage Plans to the City and Implement Requirements.

This mitigation measure will reduce this impact to a level that is less than significant.

2. Findings regarding mitigation measures which are the responsibility of another agency. (Pub. Resources Code, § 21081, subd. (a)(2); Cal. Code Regs., tit. 14, §15091, subd.(a)(2).)

There are changes or alterations that are within the responsibility and jurisdiction of another public agency and not the jurisdiction of the State Water Board. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

D. Determination

The State Water Board has reviewed and considered the environmental document and supplemental information provided by the City of Fairfield, and has reached its own conclusion to approve this Project. The State Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, § 15096.)